



**Billing Code 4333-15**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**[FWS-R1-ES-2015-0151; FXES11120100000-156-FF01E00000]**

**Draft Habitat Conservation Plan and Draft Environmental Assessment; Kaufman Properties, Thurston County, Washington**

**AGENCY:** Fish and Wildlife Service, Interior

**ACTION:** Notice of availability; request for comments

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have received an application from Kaufman Real Estate LLC, Kaufman Holdings Inc., and Liberty Leasing & Construction, Inc. (applicants), for an incidental take permit (ITP) pursuant to the Endangered Species Act of 1973, as amended (ESA). The applicants request a 20-year ITP that would authorize “take” of five listed species incidental to otherwise lawful land development and habitat conservation activities on parcels they own in Thurston County,

Washington. The application includes a draft habitat conservation plan (HCP), which describes the actions the applicants will take to minimize and mitigate the impacts of the take on covered species. The Service also announces the availability of a draft environmental assessment (EA) addressing the draft HCP and proposed permit. We invite comments from all interested parties regarding the permit application, including the draft HCP and EA.

**DATES:** To ensure consideration, please submit written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may view or download copies of the draft HCP and draft EA and obtain additional information on the Internet at <http://www.fws.gov/wafwo/>. To request further information or submit written comments, please use one of the following methods, and note that your information request or comments are in reference to the “Kaufman HCP/EA”:

- *Electronic:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments on Docket No. **FWS–R1–ES–2015–0151**.
- *U.S. Mail:* Public Comments Processing, Attn: **Docket No. FWS–R1–ES–2015–0151**; Division of Policy, Performance and Management; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, ABHC–PPM; Falls Church, VA 22041–3803.
- *In-Person Drop-off, Viewing, or Pickup:* Call 360–753–5823 to make an appointment (necessary for viewing or picking up documents only) during normal business hours at

U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE, Suite 102, Lacey, Washington 98503.

**FOR FURTHER INFORMATION CONTACT:** Tim Romanski, Conservation Planning and Hydropower Branch Chief, Washington Fish and Wildlife Office (see **ADDRESSES**), telephone: 360–753–5823. If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:** We have received an application from Kaufman Real Estate LLC, Kaufman Holdings Inc., and Liberty Leasing & Construction, Inc. (applicants), for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). The applicants request a 20-year ITP that would authorize “take” of the endangered Taylor’s checkerspot butterfly (*Euphydryas editha taylori*), threatened streaked horned lark (*Eremophila alpestris strigata*), and two threatened subspecies of the Mazama pocket gopher—Olympia pocket gopher (*Thomomys mazama pugetensis*) and Yelm pocket gopher (*T. m. yelmensis*)—incidental to otherwise lawful land development and habitat conservation activities on parcels they own in Thurston County, Washington. The application includes a draft habitat conservation plan (HCP), which describes the actions the applicants will take to minimize and mitigate the impacts of the take on covered species. The Service also announces the availability of a draft environmental assessment (EA) addressing the draft HCP and proposed permit. We invite comments from all interested parties regarding the

permit application, including the draft HCP and EA.

## **Background**

Section 9 of the ESA prohibits “take” of fish and wildlife species listed as endangered or threatened. Under the ESA, the term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). The term “harm,” as defined in our regulations, includes significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3). The term “harass” is defined in our regulations as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns, which include, but are not limited to, breeding, feeding, or sheltering (50 CFR 17.3).

Section 10(a)(1)(B) of the Act contains provisions that authorize the Service to issue ITPs to non-Federal entities for the take of endangered and threatened species caused by otherwise lawful activities, provided the following criteria are met: (1) the taking will be incidental; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking; (3) the applicant will ensure that adequate funding for the plan will be provided; (4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the applicant will carry out any other measures that the Service may require as being necessary or appropriate for the purposes of the plan. Regulations governing permits for endangered and threatened species are found in 50 CFR 17.22 and 17.32, respectively.

## **Proposed Action**

The Service proposes to issue the requested 20-year ITP based on the applicants' commitment to implement the draft HCP, if permit issuance criteria are met. Covered activities include construction, land development, and conservation of the covered species. The area covered under the draft HCP consists of 13 project development sites totaling 204 acres, and 2 conservation sites totaling 87 acres. Take of the covered species would occur primarily on the already fragmented project development sites and be mitigated for by managing larger blocks of habitat for the covered species on the conservation sites. An endowment will be funded by the applicants to manage the conservation sites for 100 years.

## **National Environmental Policy Act Compliance**

The proposed issuance of an ITP is a Federal action that triggers the need for compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*; NEPA). Pursuant to NEPA, we have prepared a draft EA to analyze the environmental impacts of three alternatives related to the issuance of the requested ITP and implementation of the conservation program under the proposed HCP.

The three alternatives analyzed in the EA are a no-action alternative, the proposed action, and an individual permits alternative. Under the no-action alternative, take of listed species would be avoided by limiting construction and development on the project development sites to areas where impacts to listed species could be avoided. Because no impacts to listed species are expected under this alternative, no HCP would be needed

and no ITP would be issued. The proposed action alternative is the implementation of the proposed HCP and issuance of the requested 20-year ITP as described above under

**Proposed Action.** The individual permits alternative would be issuance of incidental take permits for each of the 13 project development sites as they are developed rather than combining them under one ITP as proposed.

### **Public Comments**

You may submit your comments and materials by one of the methods listed in the **ADDRESSES** section. We specifically request information, views, and opinions from interested parties regarding our proposed Federal action, including adequacy of the draft HCP pursuant to the requirements for permits at 50 CFR parts 13 and 17, and the adequacy of the draft EA pursuant to the requirements of NEPA.

### **Public Availability of Comments**

All comments and materials we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personally identifiable information (PII) in your comments, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so. Comments and materials we receive, as well as supporting documentation we use in preparing the EA, will be available for public inspection by appointment, during normal business hours, at our Washington Fish and Wildlife Office (see **ADDRESSES**).

## **Next Steps**

After completion of the EA, we will determine whether the proposed action warrants a finding of no significant impact or whether an environmental impact statement should be prepared. We will evaluate the permit application, associated documents, and any comments we receive, to determine whether the permit application meets the requirements of section 10(a)(1)(B) of the ESA. We will also evaluate whether issuance of the requested section 10(a)(1)(B) permit would comply with section 7 of the ESA by conducting an intra-Service section 7 consultation on the Service's proposed ITP action. The final NEPA and permit determinations will not be completed until after the end of the 30-day comment period and will fully consider all comments received during the comment period. If we determine that all requirements are met, we will issue an ITP under section 10(a)(1)(B) of the ESA to the applicants for the take of covered species, incidental to otherwise lawful covered activities.

## **Authority**

We provide this notice in accordance with the requirements of section 10 of the ESA (16 U.S.C. 1531 *et seq.*) and NEPA (42 U.S.C. 4321 *et seq.*) and their implementing regulations (50 CFR 17.22 and 40 CFR 1506.6, respectively).

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Portland, Oregon.**

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